GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

APMDC – Levy a penalty of 5% of the sale prices for the short fall quantities of A, B and C+D+W grade Barytes against target of 50% of the agreement quantities, subject to a maximum of Rs.5.00 lakhs in respect of both Pulverizing Units and Chemical Units; and to levy a penalty of 5% of the sale price of C+D+W grade Barytes for the short fall quantities against target of 90% of the agreement quantities in respect of Buyers of C+D+W grade Barytes under exporters category instead of forfeiture of Performance Security Deposit (PSD) amounts – Orders – Issued.

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INDUSTRIES & COMMERCE (M.II) DEPARTMENT

G.O.Ms.No.54 Date :07.03.2019

Read the following:

1. G.O.Ms.No.169, Ind. & Com. (M.II) Dept., Dt.02.12.2016.
2. G.O.Rt.No.262, Ind. & Com. (M.II) Dept., Dt.24.08.2017.
3. From APMDC Lr.No.APMDC/M&S/BAR-Pul Mills/ Assn/2015-17, Dt.16.02.2018 and Dt.12.10.2018.

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ORDER:

The VC&MD, APMDC has stated that there are about 172 Pulverizing Units in and around Mangampeta. They buy Barytes lumps from APMDC and Pulverize in their mills into powder which is value addition and supply to exporters in India. These Mills dependent only on Pulverization of Barytes Mineral. There are about 24 Barium Chemical Manufacturing Units which generally consume only A grade Barytes. The Corporation entered into agreements with exporting Buyers on 09.06.2016 for a period of 1 year for A grade and B grade on tender basis and also with Pulverizing Mills and with Barium Chemical Manufacturing Units in June/ July'2016 for a period of one (1) year. As per the agreements with the exporting Buyers 90% of the target is considered as satisfactory performance. With regard to the Local Pulverizing nits and Barium Chemical Manufacturing Units, they are required to purchase at least 50% of the agreement quantities to be considered as satisfactory performance. In respect of exporting Buyers the satisfactory performance is 90% and above. In case, the performance is below 80% the PSD amount is forfeitable. In case, the performance is below 90% up to 80% penalty is leviable at 5% of the sale price. The representatives of the Pulverizing Mills and the office bearers have requested the Corporation not to forfeit the Performance Security Deposits (PSD) under the agreements since there was no demand for Barytes due to bad market conditions in the International market. Similarly M/s. Oren Hydrocarbons Pvt. Ltd., and M/s. IBC Limited also represented not to forfeit their PSD amounts under C+D+W grade Contracts because of the dampened market conditions in the International market.

2. The VC&MD, APMDC has further reported that due to continued bad market conditions many Pulverizing Units were not able to Perform satisfactorily (below 50% of the targets) as below:

Grade of Barytes	Percentage of Units with **under performance**
A grade	66.35%
B grade	69.77%
C+D+W grade	54.55%

The Corporation collected 5% value of the Contracts from both Pulverizing Units and Barium Chemical Manufacturing Units towards the Performance Security Deposit (PSD). As per the Agreements with the Pulverizing Units and Barium Chemical Manufacturing Units, the Corporation reserves the right to forfeit the PSD (for each grade) in the event the quantity purchased by the Buyer falls below 50% of the targeted quantity during the contract period. In respect of Local Pulverizing Units, based on their performance, the Corporation requires to forfeit an amount of approx. Rs.11.64 Crores, out of total PSD amount of approx. Rs.19.51 Crores.

3. In respect of Barium Chemical Manufacturing Units only 3 Unit out of 22 Units have failed to perform. The **PSD amount forfeitable is approx. Rs.23.61 Lakhs** out of the total PSD amount of about Rs.3.36 Crores. In respect of exporting Buyers the satisfactory performance is **90% and above**. In case the performance is **below 80%, the PSD amount is forfeitable.** In case, the performance is below 90% upto 80%, penalty is leviable at 5% of the sale price. In respect of Agreements with Exporting Buyers for sale of C+D+W grade Barytes the performance of 2 Buyers (out of 5 Buyers) was below 80% and the total performance security deposit of the 2 Buyers amounting to Rs.1.60 Crores is forfeitable.

4. Considering the factors, the Corporation in the current tender incorporated price revision clause after 6 months to take care any imbalances in the market. Further the Corporation considering the difficulties faced by the local Units as explained above, it has decided to reduce the Performance Security Deposit (PSD) amount payable by the local Units from 5% value of the Contract (12 months) to 5% value of their requirements for 3 months.

5. The VC & MD, M/s APMDC Ltd., has stated that representations for not forfeiting the PSD amounts under the agreements were placed before the Board of Directors of the Corporation at its 391st meeting held on 31.01.2018 and the Board of the APMDC after detailed deliberations resolved to levy a penalty of 5% of the sale prices for the short fall quantities of A grade Barytes, B grade Barytes and C+D+W grade Barytes against target of 50% of the agreement quantities subject to a maximum of Rs.5.00 lakhs in respect of both Pulverizing Units and Chemical Units and to levy a penalty of 5% of the sale price of C+D+W grade Barytes for the short fall quantities against target of 90% of the agreement quantities in respect of Buyers of C+D+W grade Barytes under exporters category and accordingly authorized the VC&MD to address the Government of Andhra Pradesh for its approval.

6. The VC & MD, M/s. APMDC Ltd. has further stated that the Security Deposit is taken for faithful performance of the Contracts. It cannot be treated as a revenue to the Company. Hence, non-forfeiture of the Performance Security Deposit amounts, cannot be treated as loss of revenue to the Corporation.

7. The VC & MD, M/s. APMDC Ltd. has, therefore, requested the Government to approve the resolution/decision of the Board of the Corporation (i) to levy a penalty of 5% of the sale prices for the short fall quantities of A grade Barytes, B grade Barytes and C+D+W grade Barytes against target of 50% of the agreement quantities subject to a maximum of Rs.5.00 lakhs in respect of both Pulverizing Units and Chemical Units and (ii) to levy a penalty of 5% of the sale price of C+D+W grade Barytes for the short fall quantities against target of 90% of the agreement quantities in respect of Buyers of C+D+W grade Barytes under exporters category instead of forfeiture of PSD
amounts.

8. After careful examination of the proposal, the Government hereby consider the request of the VC&MD, APMDC to levy a penalty of 5% of the sale prices for the short fall quantities of A grade Barytes, B grade Barytes and C+D+W grade Barytes against target of 50% of the agreement quantities subject to a maximum of Rs.5.00 lakhs in respect of both Pulverizing Units and Chemical Units and to levy a penalty of 5% of the sale price of C+D+W grade Barytes for the short fall quantities against target of 90% of the agreement quantities in respect of Buyers of C+D+W grade Barytes under exporters category instead of forfeiture of PSD amounts.

9. The VC&MD, APMDC, Vijayawada shall take necessary further action in the matter, accordingly.

10. This order issues with the concurrence of the the Finance Department vide their U.O.No. FIN01 – 45027 / 79 / 2018 –SO (FMU (REV-I)) - FINANCE, Dt.07.03.2019.

(BY ORDER IN THE NAME OF THE GOVERNOR OF THE ANDHRA PRADESH)

I.SRINIVAS SRINARESH
SECRETARY TO GOVERNMENT

To
The VC&MD, APMDC, Vijayawada.
Copy to:
The Genl. Admn. (Cabinet) Department.
The Finance (FMU-I&C) Department.
The DMG, AP, Vijayawada.
The PS to Secy. (M)/ PS to M(M&G)/ PS to CS/PS to Prl. Secy. To CM.
(E-file No: APMDC/M&S/BAR-PUL/MILLS/ASSN/2015-17)

//FORWARDED BY ORDER//

SECTION OFFICER